

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
No. 08-CR-364 (RHK/AJB)

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

THOMAS JOSEPH PETTERS,

Defendant.

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**DEFENDANT’S MOTION TO  
DEVIATE FROM SENTENCING  
PROCEDURES OR DATES**

Defendant Thomas Joseph Petters, by and through his undersigned attorneys, hereby seeks leave to deviate from sentencing procedures or dates as follows:

1. Sentencing procedures in this Court are governed by D. Minn. L.R. 83.10. In accordance with the Local Rule, the Probation Office has issued a preliminary Presentence Investigation (“PSI”) on January 13, 2010, and has calculated the due date for defense response by January 27, 2010.

2. L.R. 83.10(h) provides for relaxation of the sentencing rules and deadlines in complex matters:

To the extent a party deems appropriate given the complexity or particular nature of a case, a party or parties may seek leave from the presiding Judge to deviate from the sentencing procedures or dates set forth herein.

3. This is a complex case, and has previously been designated as such. [Docket Nos. 85, 90.] From the perspective of sentencing this defendant, the matter is all the more so. It is a difficult enough task just to wrestle with the record and get the numbers right. But beyond that, in the post-Booker era, the defense must show why a

rote application of the guidelines is not appropriate. This requires time and effort beyond the 14 days allotted.

4. An additional factor bears mentioning; Paul Engh is currently trying a murder trial expected to last two weeks. Although the defendant has a number of lawyers, Mr. Engh has by far the most experience in handling sentencing from the defense table.

5. As has been well-documented, the defendant faces a severe sanction—potentially life in prison. We know the Court’s calendar is important, as is timely disposal of cases. However, the case at hand is indisputably complex, the stakes incredibly high. In the few cases like this one, timing rules must yield to defense diligence and completeness.

6. The defense has spoken to the USAO, which has agreed to a one-week extension.

7. We have also spoken to Peter Madsen of the Probation Office, who does not object to an extension of up to three weeks.

8. Given the above, we respectfully request a three-week extension, such that the defense’s response to the preliminary PSI would be due on February 17, 2010. There will be no further requests absent extraordinary circumstances.

*[Remainder of page intentionally left blank.]*

Dated: January 26, 2010

**s/ Jon M. Hopeman**

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